IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 5619 of 2006(R)

OS.105/1984 of II ADDL.M.C.,NEYYATTINKARA
.....

PETITIONER:

PREMA, D/O. SUKUMARI,
OOTTUKUZHI PUTHENVEEDU, KOOTILIKONATHU,
MARAYAMUTTOM DESOM, NEYYATTINKARA VILLAGE FROM
PULLOORKONATHU VEEDU, PARASWAIKKAL DESOM,
PARASSALA VILLAGE.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENT:

KRISHNAN, S/O. KESAVAN NADAR,
PANCHITHRA VEEDU, MACHIKKODU DESOM,
CHENKAL VILLAGE.

BY ADV. SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.5619/2006 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT DTD. 19/03/2001 OF THE SECOND ADDITIONAL MUNSIFF'S COURT, NEYYATTINKARA.

EXT.P2: COPY OF THE PETITION FILED BY THE PETITIONER AS I.A.NO. 1882 OF 2004 IN O.S.NO.105 OF 1984 ON THE FILES OF THE SECOND ADDITIONAL MUNSIFF'S COURT, NEYYATTINKARA.

EXT.P3: COPY OF THE ORDERDTD. 26/09/2005 OF THE SECOND ADDITIONAL MUNSIFF'S COURT, NEYYATTINKARA IN I.A.NO.882/2004 IN O.S.NO.105/1984.

EXT.P4: COPY OF THE ORDER DTD. 16/01/2006 OF THE SUB COURT, NEYYATTINKARA IN C.M.A.27 OF 2005.

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 5619 of 2006

Dated this the 12th day of July , 2007

JUDGMENT

Notwithstanding the strenuous submissions of Sri.Manu.V., the learned counsel for the petitioner, it cannot be said that Ext.P4 judgment of the lower appellate court confirming Ext.P3 order of the trial court dismissing the application filed by the petitioner to set aside the ex-parte decree is vitiated to the extent of justifying interference by this court under supervisory jurisdiction under Article 227 of the Constitution. The Lower appellate Court has rightly applied the theory of substantial representation. It is seen that the mother of the petitioner, who had absolutely no conflicting interest with the petitioner had been contesting. The fact that the mother never raised the contention that her daughter who is a party has not been served with notice will certainly demonstrate that the petitioner has no contention other than those already raised and pursued by the mother.

The challenge against Ext.P4 fails and the writ petition is dismissed.

PIUS C. KURIAKOSE,

JUDGE.

Dpk